

**Appendix I**  
**Example Acquisition – Memorandum of Understanding (MOU)**

CONDITIONS FOR DATA ACQUISITION DURING  
THE 1999 AIG HYMAP USA GROUPSHOOT CAMPAIGN

This Memorandum of Understanding, Conditions for Data Acquisition During the 1999 AIG HyMap USA Groupshoot Campaign (MOU) is entered into between Analytical Imaging and Geophysics LLC ("AIG") a limited liability company, with its principal place of business located at 4450 Arapahoe Avenue, Suite 100, Boulder, Colorado, 80303, USA, and \_\_\_\_\_ ("Sponsor"), a \_\_\_\_\_ corporation, with its principal place of business located at \_\_\_\_\_.

WHEREAS, AIG is acting as the coordinator for various Sponsors for the acquisition of HyMap data, the 1999 AIG/HYVISTA North American Group Shoot ("Group Shoot"), and the Sponsor is will to acquire data using the HyMap sensor system.

WHEREAS, this MOU outlines the conditions for HyMap data acquisition as part of the Group Shoot. It establishes the guidelines for AIG and HyVista Corporation ("HyVista") efforts to acquire data using the HyMap sensor system for sponsor-specified flight locations.

NOW, THEREFORE, in consideration of the premises and the agreements and covenants of the parties set forth in this Agreement, the parties hereto agree as follows:

**DEFINITIONS**

As used in this Agreement, the following terms have the following meanings:

"Individual Site" means: a 2.3 kilometer wide x 20 kilometer long area.

"Scene" means: an image cube of an Individual Site (2.3 kilometers by 20 kilometers) at 5 meter spatial resolution and 126 spectral bands.

"Research Mode" means: Scenes acquired which may be available to anyone.

"Proprietary Mode" means: Scenes acquired which are only available to the Sponsor ordering acquisition.

**OBLIGATIONS OF AIG**

AIG shall use its best efforts to perform the services and deliver the group Scene and the Sponsor's Scene(s), listed in Exhibit A, within 8 weeks after completion of the mission. All work shall be performed in a workmanlike and professional manner to industry standards. All work will be performed using AIG facilities,

excepting HyMap data acquisition and items below indicated by (HyVista), which will be performed by HyVista Corporation.

AIG agrees to supply the following for each Scene either on CDs or tape:

- Image data in units of radiance ( $\mu\text{W}/\text{cm}^2/\text{nm}/\text{sr}$ ); BIL format data files with corresponding ENVI header files (HyVista)
- GPS positions of the plane during data acquisition (HyVista)
- Dark current measurements (HyVista)
- Spectral calibration parameters: band centers and band shape (HyVista)
- Image data corrected to apparent reflectance using an atmospheric model; BIL format data files with corresponding ENVI header files
- A single-band image of precision geocorrected data
- Geocorrection information sufficient to precision geocode other bands/results

#### OBLIGATIONS OF SPONSOR

Sponsors shall supply the start and finish coordinates of each Individual Site in latitude/longitude pairs (decimal degrees using the WGS84 datum). Larger areas can be covered at an incremental cost. If such areas are to be covered, in order to provide uninterrupted coverage of adjacent data strips, a 20% overlap for each strip with its neighbor should be allowed. AIG and HyVista Corporation accept no responsibility for sponsors supplying incorrect coordinates for survey sites; sponsors will be charged in full for the full data acquisition fee in these instances.

#### DATA ACQUISITION

Data will be acquired at a date nominated by AIG and HyVista with input from the Sponsor. Data will be acquired in weather conditions to the satisfaction of AIG and HyVista. Sponsor will be notified of proposed acquisition of data from an elected study site not less than 24 hours prior to acquisition. AIG and HyVista reserve the right to omit data acquisition for a Sponsor's chosen site if adverse weather conditions preclude the acquisition of data to corporate quality standards.

#### DATA QUALITY

All data presented to Sponsor shall bear full 126-channel coverage. To keep turbulence effects to a minimum the scanner is mounted on a stabilized platform the Jena SM 2000. The geometric integrity of the data therefore will be within the platform performance characteristics as supplied by the manufacturers and the operators will endeavor to keep turbulence effects to a minimum or abort the line if the motion is too great. Cloud cover will be less than 10 percent total for a named study area. Spatial accuracy of the data is limited by the on-board GPS of the aircraft.

Should a sponsor be dissatisfied with the data quality, the following procedure will be followed: The data in question will be supplied for a quality control assessment to 2 impartial experts, one selected by each

party. The impartial experts will have no professional or financial interest in their selector's organization. The impartial experts will assess the data quality, and judge whether the data is supplied in accordance to HyVista's specifications for the survey. Should the experts judge that data meets or exceeds HyVista's quoted data quality specifications, then the data will be supplied and the sponsor will be liable to pay agreed data acquisition costs, and all costs incurred in the data assessment. Should the experts judge that the supplied data does not meet HyVista's quoted data quality specifications, then the data will not be supplied.

#### **PAYMENT**

The cost of a Research Mode Scene is Five Thousand US Dollars (\$5,000.00). The cost of a Proprietary Mode Scene is Ten Thousand US Dollars (\$10,000.00). The Group Shoot Scene is also delivered to the Sponsor at no additional cost. Custom acquisitions and larger areas can be covered at an incremental cost and volume discounts may be applied. These additional Scenes shall be listed in Appendix E.

Invoices will be issued upon signature of this MOU and payment is net 30 days. In instances where AIG and HyVista acquire only a portion of a requested block of data due to adverse weather conditions or other unforeseen circumstances, AIG and HyVista will refund a portion of the fee at a rate proportional to the agreed fee for full data coverage. In the event that no Sponsor data are acquired AIG will refund Sponsor all payments received.

## POINTS OF CONTACT

Dr. Fred A. Kruse is designated as the AIG point of contact for this program.

AIG	Sponsor:_____
Fred A. Kruse	Contact:_____
Senior Research Scientist	Title:_____
Analytical Imaging and Geophysics LLC	Address:_____
4450 Arapahoe Ave, Suite 100	Address:_____
Boulder, CO 80303	Address:_____
Phone: 303-499-9471	Phone:_____
FAX: 303-665-6090	FAX:_____
Email: kruse@aigllc.com	Email:_____

## TERM AND TERMINATION

The Agreement shall enter into force on the Effective Date and shall continue until terminated as provided in this Section 8. After all Scenes have been delivered to Sponsor and payment received this Agreement shall terminate.

## CONFIDENTIALITY

Both Sponsor and AIG acknowledge and agree that both parties own confidential, proprietary and secret information related to various aspects of Sponsor's and AIG's respective business and technology.

As used in this Agreement, "Confidential Information" consists of (i) any information designated by either party as confidential, and (ii) any information relating to either party's product plans, client lists, product designs, product costs, product prices, product names, finances, marketing plans, business opportunities, personnel, research, development or know-how, except such information which the parties agree in writing is not confidential. Each party shall use the other party's Confidential Information solely for implementing its obligations under this Agreement. Confidential Information shall not include information that (i) is known to each at the time of disclosure to the other party, (ii) has become publicly known through no wrongful act of the other party, (iii) has been rightfully received from a third party authorized to make such disclosure without restriction, or (iv) has been approved for release by written authorization of the other party.

Each party will not use in any way for its own account or the account of any third party, nor disclose to any third party (excepting HyVista), any such Confidential Information revealed to it by the other party. Each party agrees to protect any Confidential

Information from disclosure to others with at least the same degree of care as that which is accorded to its own proprietary information, but in no event with less than reasonable care. In the event of termination of this Agreement, there shall be no use or disclosure by either party of any Confidential Information.

Each party agrees to notify the other party promptly in the event of any breach of confidentiality or security under conditions in which it would appear that any Confidential Information was disclosed in violation of this Agreement, prejudiced or exposed to loss. Each party shall, upon request of the other party, take all reasonable steps necessary to recover any compromised trade secrets disclosed to or placed in the possession of the other party by virtue of this Agreement.

Each party agrees to use Confidential Information under carefully controlled conditions for the purposes set forth in this Agreement, and to inform all persons who are given access to Confidential Information by either party that such materials are confidential trade secrets of the other party. Each party expressly agrees it shall be fully responsible for the conduct of all its employees, contractors, agents and representatives who may in any way breach this Agreement.

Each party acknowledges that any breach of any of its obligations under this Section 7 is likely to cause or threaten irreparable harm to the other party, and, accordingly, each party agrees that in such event, the other party shall be entitled to equitable relief to protect its interest therein, as well as money damages.

#### WARRANTY AND INDEMNIFICATION

Sponsor shall defend, indemnify and hold harmless AIG from and against all claims, liability, losses, damages and expenses (including attorneys' fees and court costs) arising from or in connection with the use or application of AIG's work by Sponsor or any direct or indirect purchaser or licensee of Sponsor.

AIG SHALL NOT BE LIABLE TO SPONSOR FOR ANY DIRECT, INDIRECT, SPECIAL, AND/OR CONSEQUENTIAL DAMAGES WHATSOEVER, WHETHER CAUSED BY AIG'S NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY OR OTHER CAUSE OR CAUSES WHATSOEVER INCLUDING BUT NOT LIMITED HYVISTA CORPORATIONS INABILITY TO GATHER THE HYMAP DATA SCENES.

#### GENERAL PROVISIONS

No Assignability. The parties agree that this Agreement is not assignable or transferable by AIG without the prior written consent of Sponsor.

No Agency Relationship. This Agreement does not establish any agency, joint venture, or partnership relationship between the

parties, and neither party can bind the other by any contract or representation.

Notices. All notices provided for in this Agreement shall be in writing and will be deemed effective when either served by personal delivery or sent by express, registered or certified mail, postage prepaid, return receipt requested, to the other party at the corresponding mailing address set forth on the first page hereof or at such other address as such other party may hereafter designate by written notice in the manner aforesaid.

Modification. The parties acknowledge and agree that this Agreement may only be modified by the mutual written agreement of the parties.

Entire Agreement. The written terms and provisions in this Agreement constitute the entire agreement and understanding between the parties relating to the subject matter hereof and supersede all previous communications, proposals, representations, and understandings, whether oral or written, relating thereto. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Colorado, U.S.A., without regard to the conflict of laws provisions thereof. Both AIG and Sponsor agree and consent to personal jurisdiction and venue in the state and federal courts in the State of Colorado, U.S.A. All actions relating to or arising out of this Agreement may be brought only in federal or state courts in the State of Colorado, U.S.A.

Binder. This Agreement is binding on and inures to the benefit of the parties, their respective heirs, assigns, and legal representatives.

Severability. In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such valid, illegal, or unenforceable provision had never been contained herein.

Binding Agreement. Each party agrees and acknowledges that it has read this Agreement, understands it, and agrees to be bound by the terms and conditions herein.

IN WITNESS WHEREOF, this Agreement is executed by and between the parties as of the Effective Date.

AIG

SPONSOR:

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: James M. Young

Name: \_\_\_\_\_

Title: Contracts Manager

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_